

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Request for Extension of the Sunset Date of the)
Structural, Nondiscrimination, and Other)
Behavioral Safeguards Governing Bell Operating)
Company Provision of In-Region, InterLATA)
Information Services)
CC Docket No. 96-149

ORDER

Adopted: February 7, 2000

Released: February 8, 2000

Before the Commission:

I. INTRODUCTION AND OVERVIEW

1. The Commission has before it a petition filed by the Commercial Internet eXchange Association (CIX) and the Information Technology Association of America (ITAA), pursuant to section 272(f) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 272(f).¹ Petitioners request that the Commission extend the sunset date of the structural, nondiscrimination, and other behavioral safeguards contained in section 272 of the Act, as they pertain to Bell Operating Company (BOC) provision of in-region, interLATA information services.² Section 272(f)(2) of the Act provides that all provisions of section 272, other than subsection (e), shall cease to apply with respect to the interLATA information services of a BOC four years after the date of enactment of the Telecommunications Act of 1996,³ "unless the Commission extends such 4-year period by rule or order." Therefore, absent an extension of the sunset date by the Commission, the safeguards contained in section 272 of the Act, as they apply to BOC provision of interLATA information services, sunset on February 8, 2000.

¹ Request of the Commercial Internet eXchange Association and the Information Technology Association of America, November 29, 1999 (CIX/ITAA Petition). The Commission solicited comments on the CIX/ITAA Petition on December 9, 1999. Pleading Cycle Established for Comments on CIX and ITAA Request for Extension of the Sunset Date of Safeguards Governing Bell Operating Company Provision of In-Region, InterLATA Information Services, CC Docket No. 96-149, Public Notice, DA 99-2736 (rel. Dec. 9, 1999). AT&T Corp., Bell Atlantic, BellSouth Corp. (BellSouth), Prism Communication Services, Inc., SBC Communications Inc. (SBC), and U S WEST Communications, Inc. (U S WEST) filed comments on December 17, 1999. Bell Atlantic, BellSouth, CIX, ITAA, PSINet Inc., SBC, and U S WEST filed reply comments on December 28, 1999.

² Under section 271 of the Act, 47 U.S.C. § 271, a BOC may not provide certain in-region, interLATA information services until the Commission grants the BOC an authorization to provide interLATA services originating in the in-region State from which the BOC seeks to provide interLATA information services.

³ Telecommunications Act of 1996, Pub.L. 104-104, Feb. 8, 1996, 110 Stat. 56, codified at 47 U.S.C. § 151 et seq.

2. CIX and ITAA argue that absent Commission action, the structural and behavioral safeguards applicable to BOC provision of interLATA information services will automatically sunset on February 8, 2000. As a result, they maintain, if and when the BOCs are allowed to enter the in-region interLATA information services market, they will be able to do so without ever complying with the structural and behavioral safeguards adopted by Congress.⁴ CIX and ITAA further argue that substantial evidence exists that extending the statutory structural safeguards is necessary to prevent anti-competitive abuses by the BOCs.⁵

II. DISCUSSION

3. We do not find convincing the arguments put forth in the CIX/ITAA Petition. Rather, based on the record before us, we find that there are several safeguards that will limit adequately BOCs' ability to discriminate against nonaffiliated information service providers even after section 272(f)(2) takes effect. For example, there are nonstructural safeguards that will limit the BOCs' ability to discriminate against nonaffiliated information service providers.⁶ Accordingly, we conclude that the CIX/ITAA Petition does not provide a basis for the Commission to extend beyond February 8, 2000, pursuant to section 272(f)(2) of the Act, the structural, nondiscrimination, and other behavioral safeguards contained in section 272 of the Act as they pertain to BOC provision of in-region, interLATA information services. We therefore deny the CIX/ITAA petition. Thus, by operation of section 272(f)(2) of the Act, the safeguards contained in section 272 of the Act, as they apply to BOC provision of interLATA information services, expire on February 8, 2000.

III. ORDERING CLAUSE

4. Accordingly, IT IS ORDERED that under the authority contained in sections 4(i) and (j) and 272(f) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j) and 272(f), and section 555(e) of the Administrative Procedure Act, 5 U.S.C. § 555(e), the CIX and ITAA petition for extension of the sunset date of the structural, nondiscrimination, and other behavioral safeguards contained in section 272 of the Act, as they pertain to BOC provision of in-region, interLATA information services, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Román Salas
Secretary

⁴ CIX/ITAA Petition at 3.

⁵ *Id.*

⁶ *See, e.g.*, sections 201, 202, 251(c)(5) and (g), and 272(e) of the Act, 47 U.S.C. §§ 201, 202, 251(c)(5) and (g), and 272(e).